

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:04-CR-109

v.

HON. ROBERT HOLMES BELL

CLAUDE BARNES,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #83). Based on a review of defendant's motion, the Sentence Modification Report, submissions by counsel on behalf of the defendant and the government, and the original criminal file, the Court has determined that the motion should be **DENIED**.

Defendant was originally sentenced on January 3, 2005 to a term of custody of 168 months following his conviction for Distribution of More than 5 Grams of Cocaine Base (Count 1) and Distribution of More than 50 Grams of Cocaine Base (Count 2). On September 26, 2006, following a *Booker* remand, the defendant's term of custody was amended to 120 months as to both counts, to be served concurrently. Because defendant is subject to a 10-year statutory mandatory minimum sentence as to Count 2, defendant is not entitled to a reduction in sentence under 18 U.S.C. §3582(c)(2) and USSG §1B1.10.

Date: September 18, 2009

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE